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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,254	10/13/2000	Harry M. Meade	10275-139001	9900

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EXAMINER

QIAN, CELINE X

ART UNIT PAPER NUMBER

1633

DATE MAILED: 11/26/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/688,254

Applicant(s)

MEADE ET AL.

Examiner

Celine Qian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_\_



### **DETAILED ACTION**

Claims 1-18 are pending in the instant application.

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, drawn to a transgenic system for purification of a target polypeptide and a method for producing said polypeptide, classified in class 800, subclass 7 and 14.
- II. Claims 11-15, drawn to a multiple animal transgenic system for obtaining a target polypeptide and a method for producing said polypeptide, classified in class 800, subclass 7 and 17.
- III. Claims 16-18, drawn to a transgenic animal and a method of producing a polypeptide using the transgenic animal, classified in class 800, subclass 7 and 14.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are patentably distinct because the inventions are drawn to different compositions and methods that require different starting materials and modes of operation. The transgenic system of Group I comprise different subcomponents than the transgenic system of Group II. In addition, the method of producing a polypeptide using the transgenic system of Group I involves different steps than the method of Group II. Thus, the inventions of Group I are patentably distinct from the inventions of Group II.

Inventions I and III are patentably distinct because the inventions are drawn to different compositions and methods that require different starting materials and modes of operation. The

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transgenic system of Group I comprise different subcomponents than the transgenic animal of Group III. In addition, the method of producing a polypeptide using the transgenic system of Group I involves different method steps than the method of Group III. Thus, the inventions of Group I are patentably distinct from the inventions of Group III.

Inventions II and III are patentably distinct because the inventions are drawn to different compositions and methods that require different starting materials and modes of operation. The transgenic system of Group II comprise different subcomponents than the transgenic animal of Group III. In addition, the method of producing a polypeptide using the transgenic system of Group II involves different method steps than the method of Group III. Thus, the inventions of Group II are patentably distinct from the inventions of Group III.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X Qian whose telephone number is 703-306-0823. The examiner can normally be reached on 8:30-5:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah J Clark can be reached on 703-305-4051. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Celine Qian, Ph.D.  
November 8, 2001



REMY YUCEL, PH.D  
PRIMARY EXAMINER